

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Smith et al.

Examiner: Unassigned

Serial No.: 09/691,782

Group Art Unit: 3738

Filed: October 19, 2000

Docket: 760-3 RES

For: COVERED STENT

Dated: February 16, 2001

I hereby certify that this correspondence is being deposited with United States Postal Service as first class mail, postpaid in an envelope, addressed to: Commissioner For Patents, Washington, D.C. 20231

Dated: February 16, 2001

Signed: Barbara Kemmlein/

Commissioner For Patents
Washington, D.C. 20231

STATEMENT UNDER 37 C.F.R. § 3.73(b)
ESTABLISHING RIGHT OF ASSIGNEE TO TAKE ACTION

Sir:

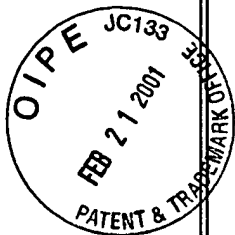
SCIMED Life Systems, Inc., states that it is the assignee of the entire right, title and interest in the above-identified patent application, by virtue of the Assignment from the inventors of the application identified above. The Assignment was recorded in the U.S. Patent and Trademark Office on December 18, 1996 in Reel 8327, Frame 0114.

The undersigned is empowered to sign this statement on behalf of the assignee as evidenced by the attached authorization form.

Respectfully submitted,

Luke R. Dohmen
Registration No. 36,783
Senior Patent Counsel

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, New York 11791
(973) 331-1700



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application for Reissue of U.S. Patent
No. 5,824,046

Applicant(s): Smith, et al.

Serial No: 09/691,782

Filing Date: October 19, 2000

Docket: 760-3

Issued: October 20, 1998

For: IMPROVED COVERED STENT

Dated: February 16, 2001

I hereby certify this correspondence is being deposited with
the United States Postal Service as first class mail, postpaid in
an envelope, addressed to: Assistant Commissioner of Patents,
Washington, D.C. 20231.

Dated: February 16, 2001

Signature: B. Kemmlein

Assistant Commissioner for Patents
Washington, DC 20231

REISSUE DECLARATION

Sir:

We, Scott R. Smith, David Sogard, and Susan Shoemaker, residents of Chaska, MN, Edina, MN and Elk River, MN respectively, declare we are citizens of the United States, and:
that we believe we are the original and first inventors of the subject matter claimed in U.S. Patent No. 5,824,046 (hereinafter the '046 patent) entitled "Covered Stent";
that we have reviewed and understand the specification of the accompanying reissue application, including the claims;
that we believe that we are the original and first inventors of the subject matter which is claimed and for which the reissue patent is sought; and
that we acknowledge our duty to disclose to the U.S. Patent and Trademark Office all information known to us to be material to patentability as defined in 37 C.F.R. §1.56.

We further declare that we believe the above identified original patent to be partly inoperative or invalid by reason of our claiming less than we had a right to claim in the original patent. Specifically, we believe that the original patent is partly inoperative or invalid for including limitations in the claims that were not required by the prior art.

After reviewing the specification and issued claims of the '046 patent and consulting with the patent attorneys of SCIMED Life Systems, Inc. and of Hoffmann & Baron, LLP, who are outside counsel for SCIMED Life Systems, Inc., the assignee of the '046 patent, we came to the realization that we had inadvertently failed to claim certain broad aspects of our invention.

We believe that the error constituted inadvertent failure to appreciate the full scope of the claims which were available in view of the prior art, and that the error arose without any deceptive intent on our part.

Claim 15 of the re-issue application corresponds generally with claim 1 of the '046 patent. Claim 15, however differs from claim 1 in at least one respect, including, for example: Claim 1 describes an elongate segment; said segment being expanded in a transverse direction so as to reduce the original longitudinal expanse of the ePTFE cover. More specifically, claim 1 stated that the elongate segment was, "expandable longitudinally upon said radial expansion of said stent to return said expanded segment to said original longitudinal expanse to thereby control said radial expansion of said stent". This language of claim 1 has not been included in claim 15, and has been replaced by more functional language regarding the expansive characteristics of the PTFE cover of the stent.

We believe that this limiting language regarding the elongate segment was not necessary to be included in claim 1 with regard to its patentability over the prior art. More specifically, it is clear that there is nothing in the prior art which discloses, teaches, or suggests covering a stent at a first diameter with a transversely-expanded and transversely-aligned sheet of unsintered ePTFE so that the sheet can itself expand with a radial expansion of the stent to a second larger diameter. These limitations are included in reissue claim 15.

These and other limitations in the issued claims resulted from our apparent failure and the failure of patent counsel to fully appreciate the limiting nature of the claim limitations, as well as failure to fully appreciate the full scope of the invention as taught by the specification.

Furthermore, all errors being corrected in the present reissue application arose without any deceptive attempt on our part.

We declare that all statements made herein, of our own knowledge, are true, and that all statements made upon information and beliefs are believed to be true, and further that these statements were made after being warned that willful false statement and the like are punishable by fine or imprisonment, or both under 18 U.S.C. 1001, and that such false statements may jeopardize the validity of this application or any patent issuing thereon.

Respectfully submitted,

Name: Scott R. Smith

Signature:



Date:

16 Jun 2001

Residence: 6950 County Road 10
Chaska, MN 55318

Name: David Sogard

Signature:



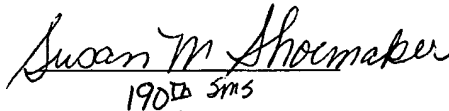
Date:

2/1/01

Residence: 5809 Concord
Edina, MN 55424

Name: Susan Shoemaker

Signature:

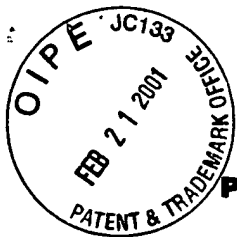

190th SMS

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Practitioner's Docket No. 760-3 RES**PATENT****ASSENT BY ASSIGNEE FOR FILING OF REISSUE APPLICATION**

NOTE: The written assent of all assignees, if any, owning an undivided interest in the original patent must be included in the application for reissue. 37 C.F.R. 1.172(a).

This is part of the application for a reissue patent filed herewith based on the original patent identified as follows:

Smith et al.

Name of Patentee

5,824,046

Patent Number

October 20, 1998

Date Patent Issued

COVERED STENT

Title of Invention

I am an assignee owning

☒ an undivided interest to the above original patent.☐ a _____% (per cent) interest in the above original patent.

I assent to the accompanying application for reissue.

Attached is a "Statement under 37 C.F.R. § 3.73(b) — Establishing Right of Assignee to Take Action."

SCIMED Life Systems, Inc.

Name of assignee


 Signature of person signing for assignee
Date: Feb 13, 01

Luke Dohmen, Senior Patent Counsel
 (type or print name and title of person signing for assignee)